



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of M’barutua Kithia Kingili alias Barutua Kithia (Deceased) (Succession Cause 240 of 2009) [2023] KEHC 2374 (KLR) (23 March 2023) (Ruling)

Neutral citation: [2023] KEHC 2374 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 240 OF 2009
TW CHERERE, J
MARCH 23, 2023**

BETWEEN

JOHN MEME BARUTUA PETITIONER

AND

DANIEL KOBIA 1ST ADMINISTRATOR

PETER MURUNGI M’BARUTUA 2ND ADMINISTRATOR

JASON KABILU M’BARUTUA 3RD ADMINISTRATOR

RULING

1. By judgment dated April 4, 2019, Gikonyo J made orders distributing the deceased’s estate. Asset number 9 of the 13 assets distributed were Shares with Barclays Bank which the court ordered that they be sold and proceeds shared equally amongst:
 - a) Rebecca Gitura
 - b) Stanley Karuru
 - c) Rebecca Mpindi
 - d) Isaiah Mukaria
 - e) Grace Nchororo
 - f) Kauninku M’barutua
 - g) Jason Kabilu
 - h) John Meeme
 - i) Nkatha M’barutua



- j) Peter Murungi
 - k) Jacob Mithika
 - l) Bernard Mati
 - m) Isaac Kiili
 - n) Charles Kubai
 - o) Nathan Kiulio
 - p) Francis Ntongai
 - q) Paulina Karimi
 - r) Janet Mbarutua
 - h) John Meeme
 - r) Janet Mbarutua
2. By summons dated March 8, 2022 supported by an affidavit sworn by the 3rd administrator/applicant on March 15, 2022, administrators/applicants state that they have not distributed the estate in the shares for the reason that the petitioner/respondent has declined to release the share certificates to them. They thus pray that petitioner/respondent be compelled to surrender the share certificate/s or account for the proceeds of the shares in the event that he has already disposed of the shares.
 3. By his replying affidavit sworn on March 13, 2023, petitioner/respondent makes no answer to the administrators/applicants' claim but only contends that he did not get a share of KES. 1,160,000/- that the court ordered be distributed to the beneficiaries.
 4. I have considered the summons in the light of the affidavits on record and since the petitioner/respondent neither denies that he is holding the shares certificate/s nor that he has declined to release them to the Administrators, he is deemed to have admitted the allegations of fact made by the administrators/applicants.
 5. Court orders are not made in vain. If for any reason the administrator/respondent did not get a share of KES. 1,160,000/- that the court ordered be distributed to the beneficiaries, he had a duty to move the court appropriately instead of withholding the deceased's share certificate/s to the detriment of other beneficiaries.
 6. From the foregoing, I find that the summons dated March 8, 2022 has merit and it is allowed in the following terms:
 1. This court hereby makes an order compelling John Meme Barutua (petitioner/respondent) to release the deceased's share certificate/s with Barclays Bank now ABSA Bank to the administrators/applicants within 14 days from today's date
 2. In the event that the shares have been disposed off, petitioner/respondent is directed to account and/or surrenders all the money received from the shares to the administrators/applicants within 14 days from today's date
 3. Costs of this application shall be borne by petitioner/respondent

MENTION ON 27TH APRIL, 2023 TO CONFIRM COMPLIANCE



DATED AT MERU THIS 23RD DAY OF MARCH 2023

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Morris Kinoti

For Administrators/Applicants - Ms. Gatwiri for Murango Mwenda & Co Advocates

For Interested Party- - Ms. Asuma for Mutembei & Kimathi & Co. Advocates

